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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES:

Situation of human rights in Zaire

Report by the Secretary-General

GE.94-10627 (E)

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INTRODUCTION

1. On 10 March 1993, at its forty-ninth session, the Commission on Human Rights adopted without a vote resolution 1993/61 entitled "Situation of human rights in Zaire", in which it requested the Secretary-General to bring the resolution to the attention of the Zairian authorities and to report to the Commission at its fiftieth session, on the basis of any information which might be gathered on the situation of human rights in Zaire, including information supplied by non-governmental organizations. This report has been prepared in response to the requests made in the above-mentioned resolution.

2. In a note verbale dated 15 July 1993, the Secretary-General transmitted a copy of resolution 1993/61 to the Minister for Foreign Affairs and Cooperation of the Republic of Zaire and expressed the hope that he would receive from the Government of Zaire any information and observation that it might wish to submit regarding the resolution.

3. The first chapter of this report reproduces the contents of a memorandum from the Government of Zaire transmitted in a letter dated 19 November 1993 addressed to the Secretary-General, in reply to his note verbale of 15 July 1993. The second chapter summarizes the action taken by special rapporteurs and working groups of the Commission on Human Rights and treaty mechanisms relating to Zaire. The third chapter reproduces excerpts from a report published in December 1993 by the Department of Humanitarian Affairs and the last chapter is a collation of the information contained in the many reports brought to the Secretary-General's attention by non-governmental organizations.

I. INFORMATION PROVIDED BY THE GOVERNMENT OF ZAIRE

4. In a letter dated 19 November 1993, the Government of Zaire addressed to the Secretary-General a memorandum concerning Commission on Human Rights resolution 1993/61, the text of which is reproduced below:

> "The Government of the Republic of Zaire has received notification of Commission on Human Rights resolution 1993/61, adopted without a vote on 10 March 1993.
>
> After studying the resolution, the Government wishes to make a number of observations.
>
> Zaire has ratified the International Covenant on Economic, Social and Cultural Rights, as well as the International Covenant on Civil and Political Rights and its Optional Protocol.
>
> It has also ratified the African Charter on Human and Peoples' Rights.
>
> This means that it is committed to ensuring observance of all human rights and to cooperating with human rights bodies within the framework of the United Nations and the Organization of African Unity, in accordance with the provisions of those instruments and with the generally recognized principles of international law.

I. PROCEDURE: ADMISSIBILITY AND SIGNIFICANCE OF COMMUNICATIONS

(a) Obligation to exhaust domestic remedies.

Under article 41 of the International Covenant on Civil and Political Rights and article 2 of the Optional Protocol, any complainant must have exhausted available domestic remedies before applying to the competent international authorities of the United Nations.

Following its ratification of these instruments, the Republic of Zaire introduced, as an addition to normal judicial procedures, two special appeal mechanisms intended to guarantee human rights, namely:

The Inspectorate-General for judicial services, to consider appeals for miscarriages of justice and to ascertain how judicial procedures are applied by judges and the judicial police in conducting interrogations and making arrests, in order to prevent the execution of blatantly unlawful judicial decisions or to forestall possible abuses;

The Department of Civil Rights and Liberties to defend individuals whose rights or freedoms have been unjustly infringed by any act on the part of the authorities or of individuals, once the person concerned has properly exhausted all available normal legal remedies and those remedies have proved ineffective in that the injustice in question clearly continues to exist.

The Government notes that the national authorities have as yet received no complaint regarding the allegations made against Zaire by the Commission on Human Rights in resolution 1993/61.

Accordingly, the Government considers that, given the existence of legal remedies in Zaire, the Commission should simply have noted the failure of the complainants to apply to the domestic courts and should have declared inadmissible complaints submitted without the available domestic remedies having actually been exhausted.

It should at most transmit the communications to the Government and invite the complainants to follow the normal procedures.

(b) Significance of communications to the Government

The above-mentioned Covenant and Protocol make the adversary principle, and thus equality between the opposing parties, an integral part of procedure.

According to this principle, when a communication has been declared admissible, it must be brought to the attention of the State in question to enable it to prepare its response, as provided, for example, in articles 41 of the Covenant and 4 of the Protocol.

The Government of Zaire does not acknowledge having received a communication either from the Special Rapporteur on extrajudicial,

summary or arbitrary executions, or from the Working Group on Enforced or Involuntary Disappearances, regarding the allegations referred to in the resolution.

However, Zaire, which is in contact with the United Nations bodies concerned with human rights questions, has always provided them with the information they require to deal with the cases before them.

(c) Objections of the Government of Zaire regarding the procedure for the adoption of resolution 1993/61

The Government of the Republic of Zaire wishes to emphasize that the above-mentioned procedure provided for in international legal instruments must be applied strictly by the United Nations bodies concerned with human rights matters.

It sincerely believes that the procedures established in the area of human rights cannot be disregarded without jeopardizing the rights which they guarantee.

Accordingly, strict observance of those procedures in the first place by United Nations bodies would be a mark of confidence in the Member States from whom they require such observance and a clear encouragement to them to intensify their efforts for the protection of human rights.

The Government of Zaire is therefore still unsure why the Commission on Human Rights adopted the resolution, thus departing from regular procedures.

II. CONCERNING SUBSTANCE

The Government of Zaire in no way wishes to avoid responding to the allegations but, in the light of the observations set out above, can only provide an equally general reply regarding the substance. Most of the accusations are vague and anonymous, particularly as they do not refer to any specific cases of human rights violations. They give no indication as to the acts of violation, their authors or the alleged victims.

This state of affairs should not exist, but the Government has so far received no communications concerning any of these allegations on the basis of which it might have ascertained the facts and identified the complainants and the victims.

CONCLUSION

The Government of Zaire remains prepared to cooperate fully with United Nations human rights bodies, both within and outside the context of resolution 1993/61.

It will wait for the relevant communications to be transmitted to it in order to provide precise information to the Commission".

II. ACTION TAKEN BY SPECIAL RAPPORTEURS AND WORKING GROUPS OF THE COMMISSION ON HUMAN RIGHTS, AND BY TREATY MECHANISMS IN RESPECT OF ZAIRE

(a) Action taken by the Working Group on Enforced or Involuntary Disappearances

5. Detailed information concerning the action taken in respect of Zaire by the Working Group on Enforced or Involuntary Disappearances is contained in the Working Group's report to the Commission (E/CN.4/1993/26, paras. 509-513). During the year, the Working Group transmitted to the Government an urgent appeal concerning the editor-in-chief of a local newspaper, allegedly abducted by armed men belonging to the Special Presidential Division (DSP) or to the Civil Guard. At the time of finalizing its report, the Working Group had received no reply from the Government of Zaire.

(b) Action taken by the Special Rapporteur on extrajudicial, summary or arbitrary executions.

6. The action taken in respect of Zaire by the Special Rapporteur on extrajudicial, summary or arbitrary executions is described in detail in his report to the Commission (E/CN.4/1994/7, paras. 653 to 662).

7. During 1993, the Special Rapporteur sent five urgent appeals to the Government of Zaire expressing concern about the lives and physical integrity of two members of the Comité laic de coordination and two members of the Supreme Council of the Republic whose names reportedly were on a blacklist of persons to be executed by members of the security forces; Mikuin Leliel Balanda, President of the Supreme Court and Chairman of the ad hoc Working Group of Experts on southern Africa, who had been the victim of three armed attacks attributed to members of the security forces and whom the authorities had failed to provide with protection; the brother of a writer who had criticized the President of the Republic and was reportedly abducted with his sisters by members of a special team of the DSP known as the "owls" after receiving numerous death threats and having been the victim of several attempted abductions; an adviser to Prime Minister Tshisekedi, who was the victim of an attempt on his life as he was being treated at the hospital for wounds inflicted in an armed attack on his home; another adviser to the Prime Minister, who had reportedly been followed by security agents. The Special Rapporteur also transmitted to the Government of Zaire an urgent appeal concerning an incident which occurred on 15 April 1993, when members of the DSP were reported to have opened fire indiscriminately and without provocation on a crowd of peaceful demonstrators in front of the Prime Minister's residence, and regarding allegations of a massacre of Banyarwanda in North Kivu.

8. The Special Rapporteur also transmitted to the Government of Zaire one specific case concerning an incident which occurred in Kinshasa, when members of the DSP reportedly killed at least 15 civilians, including an 11-year-old child and a pregnant woman, in retaliation for the murder of one of their members.

9. General allegations concerning respect for the right to life in Zaire were also sent to the Government. In the observations contained in his report, the Special Rapporteur reiterated his concern at the alarming number of grave violations of the right to life reported to him and occurring in a climate of violent anarchy and impunity. According to the reports brought to his attention, the Zairian people were paying a high price in the struggle for political power between President Mobutu and his opponents, and the Special Rapporteur expressed the fear that the country might slide inextricably towards total anarchy. He also expressed concern at the outbreak of intercommunal violence, particularly in the regions of Shaba and North Kivu. At the time of finalizing his report, the Special Rapporteur had received no reply from the Government of Zaire.

(c) Action taken by the Special Rapporteur on the question of torture

10. Detailed information on the action taken regarding Zaire by the Special Rapporteur on the question of torture are contained in his report to the Commission (E/CN.4/1994/31, paras. 657 to 664).

11. During 1993, the Special Rapporteur transmitted to the Government information that opposition members and sympathizers had been tortured after being arrested, in some cases in secret places of detention or military camps. The Special Rapporteur also transmitted to the Government four urgent appeals expressing fears for the physical integrity of the following persons: nine individuals, including close associates of Prime Minister Tshisekedi, who, while waiting at Kinshasa Airport for a delegation of French human rights activists, were reportedly arrested and beaten up by members of the DSP; a representative of the Prime Minister, arrested twice and allegedly tortured; nine members of the Banyarwanda ethnic group, arrested in North Kivu and taken to Kinshasa.

12. In the case of the Prime Minister's representative, the Government replied that the person in question had been arrested for offences punishable under Zairian law and that he was being held in detention and could receive visitors. The Government also stated that, under the Zairian Penal Code, torture was considered a crime and that it could therefore neither authorize nor tolerate it. Consequently, the person in question was safe and had not been tortured.

(d) Treaty mechanisms

13. Zaire is a party to the following instruments: the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of the Child. It should be noted, however, that Zaire is late in submitting its reports to the various committees set up by the above-mentioned Conventions. In this connection, the Chairman of the Human Rights Committee, at the Committee's request, sent a letter to the Government on 12 May 1993, stating that the Committee deeply deplored the fact

that Zaire had not submitted its third periodic report and hoped that, in view of the importance of the matter and the obstacles to implementation of the Covenant in Zaire, the report would be submitted as soon as possible.

III. INFORMATION FROM UNITED NATIONS AGENCIES

14. In December 1993, the Department of Humanitarian Affairs issued a report following an inter-agency mission sent to Zaire in August 1993 to assess the humanitarian needs of the population, and in particular of displaced persons. The mission took place under the auspices of the general mandate of the Secretary-General's Special Envoy, Mr. Lakhdar Brahimi. Excerpts from the report are reproduced below. 1/

Socio-economic situation

"The past three years have witnessed an unchecked acceleration in the decline of Zaire's human capital, economic fabric and social infrastructure, with the modern sector more seriously affected than in previous crises. Destructive riots in September 1991 and January 1993 led to a further deterioration in basic infrastructure, aggravating an already precarious social situation characterized by social indicators which are among the most alarming in Africa: a GNP per capita of less than US$ 262, an under-five mortality rate of 200 per 1,000, a maternal death rate of 6 per 1,000 live births, 25 per cent of children and 13 per cent of pregnant women suffering from malnutrition, a high prevalence of tropical diseases and AIDS, less than 23 per cent of the population having access to drinking water, a primary school enrolment rate of about 61 per cent, and a secondary school enrolment of barely 16 per cent. The continuous economic decline is further eroding the purchasing power and aggravating the already fragile nutritional status of the population. Disease is widespread and poverty is pervasive. (...)

The launching of the democratization process in Zaire in April 1990, and its chequered evolution ever since, have ushered in new institutional constraints. The lack of agreement between the country's main political leaders on the conduct of the political transition period has led to socio-political tensions, rendered government ineffective, paralysed public administration, and closed down essential social services. Civil service salaries are unpaid for about eight months now, strikes are becoming more and more rampant, and corruption is on the rise. (...)

Against this background of general economic decline, coupled with political problems, unrest in the armed forces, tribal and inter-ethnic conflicts, the overall situation of the population in Zaire has deteriorated significantly. Within that framework, particular attention

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1/ Department of Humanitarian Affairs, "Consolidated United Nations Inter-Agency Appeal for Emergency Humanitarian Assistance - Zaire" (DHA/93/133), December 1993, pp. 8 to 13.

has to be devoted to internally displaced people who are at the moment in dire need of humanitarian emergency assistance in order to secure their survival at least until the next harvest."

Humanitarian situation in Shaba/Kasai

"The latest outbreak of ethnic conflict in Shaba started in August 1992, causing a mass movement of population back to Kasai. According to official figures, 732,000 returnees have already arrived back in East Kasai, and 85,000 in West Kasai. Taking into consideration the fact that some of the early returnees have settled with relatives and/or succeeded in securing basic subsistence, the present appeal will concentrate on those presently identified by humanitarian organizations as most vulnerable and in need of immediate assistance. These include 400,000 displaced persons in East Kasai, 70,000 in West Kasai, and 135,000 in Shaba, grouped mainly in the cities of Likasi and Kolwezi, and along the railway.

Their transportation back to Kasai is presently the highest priority because they are concentrated in great numbers in extremely precarious living conditions, and face the risk of famine, and are exposed to epidemics and even physical insecurity. Organizing transportation for these people will already be a major effort, but it is equally important to ensure adequate conditions upon their arrival, as well as transhipment to their regions of final destination. Also, they have to be fed while, before and during transportation, and supported upon arrival with food, health care, seeds, basic tools and construction materials for shelter."

The humanitarian situation in North Kivu

"In March 1993, this tension led to violent ethnic confrontations resulting in several thousand dead and the displacement of an estimated 225,000 people in the administrative districts of Walikale, Masisi, Lubero, Rutshuru and Goma, which are situated in a mountainous, often hardly accessible area covering about 15,000 sq.km. As of September 1993, an estimated 3,000 people had been killed and thousands more injured. A breakdown in law and order has caused extensive destruction of the region's infrastructure and social services. Currently, over 600,000 people in North Kivu (about 20 per cent of the population) are directly affected by the conflict, primarily in the administrative health zones of Masisi, Kirotshe, Mweso, Walikale, Pinga, Goma, Rutshuru, Birambizo and Kayna. Reports and data compiled by humanitarian organizations working in the region indicate that ethnic division and hostility are continuing in the initial conflict zones, as well as in other ethnically mixed zones which had hitherto preserved their harmony.

The North Kivu conflict is particularly grim for children who constitute over 60 per cent of the displaced population (135,000 out of 225,000), and who are by far the most affected victims of the hostilities.

These violent conflicts, coupled with a lack of access to basic health services, have resulted in death rates among the highest ever recorded. Many health care services in the distressed areas have been destroyed or looted while in other zones health personnel and doctors have fled for security reasons. Among the services still operating, medicines and medical supplies are either completely exhausted or are in extremely short supply due to the influx of emergency cases and the inability of the displaced people to pay for their medical care. In addition, the insecurity and consequent inaccessibility of some health zones are creating disruptions in the supply of vaccines and medicines.

The leading causes of child death (measles and diarrhoea) are inextricably linked to food deprivation and micro-nutrient deficiencies. Vulnerable groups are also exposed to malaria, acute respiratory infections, and other common diseases. For women, anaemia and protein energy malnutrition are compounded by the enormous pressures and energy demands of single-handedly protecting themselves and their children.

North Kivu will suffer a serious food deficit this year, because the conflict zone is the country's main granary and the supply of food from this area to the rest of the province has been disrupted. Annual planting seasonr will be impossible to respect in much of the province due to the destruction and ransacking of farms and villages, theft and burning of food and seed stocks, the depletion of livestock through large-scale theft and killing, and the forced displacement of the inhabitants. Prices of basic foodstuffs, notably beans, have already begun to rise and scarcity of other basic foodstuffs is being reported.

Transit camps and concentration sites are grappling with critical shortages of potable water and abominable sanitation conditions (in Masisi camp, two water pumps are serving a population of over 6,500). The risk of epidemic outbreaks (water-borne disease, whooping cough, polio, malaria) is extremely high."

The humanitarian situation in Kinshasa

"It is difficult to programme any kind of humanitarian assistance in the country without taking into account Kinshasa, which is at the centre of the country's difficulties. The recent looting in Kinshasa, coupled with the current socio-political crisis have created an emergency situation which necessitates an immediate and flexible response. Public institutions, international organizations (UNICEF, WHO), health services, business concerns, religious organizations and private residences were hardest hit during the recent riots. More than one year's efforts to recover from the 1991 looting was dashed overnight by the January 1993 riots, further worsening Zaire's threadbare economic and social fabric. Insecurity persists throughout Kinshasa with regular reports of mugging and home burglaries committed by armed bandits.

Rural exodus, exacerbated by the economic situation, has swelled the population of the Zairian capital to 4.5 million inhabitants, a large percentage of which is either jobless or lives on symbolic and irregular wages. As a result of the riots, the city finds itself deprived of major

food items, medicines and many other basic items. Central depots, hospitals, health centres and schools have been emptied, and public services have virtually ground to a halt, partly because of limited supplies of fuel and lack of spare parts. Most foreign experts, managers, businessmen and traders have left, leaving a massive unemployment rate that is hampering productivity."

IV. INFORMATION FROM NON-GOVERNMENTAL ORGANIZATIONS

15. This chapter contains information taken from the many reports submitted to the Secretary-General by the following non-governmental organizations: Africa Watch, Amnesty International, the Association zaïroise de defense des droits de l'homme (Zairian Association for the Defence of Human Rights) (AZARDHO), the Comité d'appui à la democratisation au Zaïre (Committee to Support Democratization in Zaire), the Coordination de la communauté Kasaïenne au Shaba (Coordinating Committee of the Kasai Community in Shaba), the International Federation of Human Rights (FIDH), the Ligue des droits de l'homme (League of Human Rights (Zaire)), the Ligue zaïroise des droits de l'homme (Zairian League of Human Rights), the World Organization against Torture, the International Society for Human Rights, the United States Committee for Refugees and the Voix des sans voix (Voice of the Voiceless).

(a) Overall situation in Zaire during 1993

16. The political changes announced on 24 April 1990 by President Mobutu Sese Seko, including the legalization of opposition parties and human rights defence groups, the release of political prisoners and the permission for an independent press were intended to bring to an end the 24-year old single party regime of the Mouvement populaire de la révolution (MPR, since renamed the Mouvement populaire pour le renouveau). However, the implementation of the political reforms that were to follow has been postponed time and time again.

17. There was virtually total political deadlock throughout the year, as two prime ministers, leading two rival cabinets, confronted one another for power and legitimacy: the Prime Minister chosen by the National Sovereign Conference, Etienne Tshisekedi, remained without any effective authority, as the President of the Republic retained control over the security forces and the National Bank, while his appointment of Faustin Birindwa as Prime Minister in March 1993, in place of Etienne Tshisekedi, was not confirmed by the transition organ, the Superior Council of the Republic (HCR).

18. During the year, there were several reports of interference by the security forces in the transition process, including the following: in February 1993 members of the security forces allegedly surrounded the People's Palace to prevent a meeting of the HCR, which continued to support Prime Minister Tshisekedi; during the same month, the members of the HCR were allegedly held against their will in the People's Palace for three days by members of the security forces, apparently in order to compel them to legalize the circulation of the 5 million zaire note; in April, military personnel allegedly prevented an extraordinary session of HCR from taking place; in the same month, the residence of Prime Minister Tshisekedi, and those of some members of his Government were besieged by members of the security forces and

searched without warrant. Several civilians were reported to have been shot during these incidents. The Minister for Foreign Affairs of the Tshisekedi Government was allegedly arrested in the night of 26 April and interrogated for four hours. He was then reportedly placed under house arrest for four weeks.

19. During 1993, the situation of Zairians grew worse and worse: the economy deteriorated still further, with a rate of inflation nudging 10,000 per cent and a rising rate of unemployment; frequent looting and banditry committed by groups of men in military uniform and carrying firearms, or by regular soldiers, have led to a situation of total insecurity. There have reportedly been few efforts to control this situation, and little or no public assistance has been made available to the victims of the violence.

20. The deadlock in the democratization process and the prolonged political instability resulting from it are said to be the main causes of the deterioration in the human rights situation in Zaire and of the inter-ethnic disturbances described in this report.

(b) Violations of the right to life

1. Violations for which the Zairian security forces are allegedly responsible

21. The organs of the security forces most frequently accused of violations of the right to life are the following: the Special Presidential Division (DSP), the Civil Guard, a paramilitary force established in 1984 and incorporated into the Zairian armed forces (FAZ) in March 1993, and two security services, one military, the other civilian: the Military Action and Information Service (SARM) and the National Intelligence and Protection Service (SNIP). These bodies, which are reported to have been given preference over the remainder of the security forces, and deliberately divided along tribal and ethnic lines, remain under the personal control of the President of the Republic, who, according to information received, refuses to give up command of them or to share it with the Transitional Government. In fact, according to certain reports, the security forces are used to enforce decisions which have been turned down by opponents of the President of the Republic or to prevent the implementation of reforms or of a policy that has not received his approval. The security forces are in particular reportedly to have launched attacks on peaceful political demonstrations, killing and wounding unarmed civilians (see para. 43 below).

22. The virtual impunity apparently enjoyed by the security forces would seem to indicate that they commit human rights violations with the consent of the highest authorities. During power struggles and since the sudden collapse of the economy, the security forces, apparently beyond all control, are reported to have burned and pillaged several towns, looting everything in their path and attacking unarmed civilians, and in particular opponents of the President of the Republic. As a result it is at times difficult to determine whether the human rights violations were ordered by the authorities or whether the security forces acted on their own initiative. The uncertainty is due, inter alia, to the fact that most of the violations and other crimes committed by the security forces are allegedly neither prevented nor punished, and give

rise to no official independent investigation. In fact, according to some observers, indiscipline is deliberately maintained in some units.

23. Between 28 January and 3 February 1993 riots sparked off by military personnel took place in Kinshasa, after they had received their pay in the form of 5 million zaire notes, which were unusable because shopkeepers refused to accept them. This currency unit, which was put into circulation by the Governor of the Bank of Zaire, had been taken out of circulation by a decree issued by Prime Minister Tshisekedi. The note had already been the cause of mutinies and looting in December 1992 in provincial towns. Almost 1,000 persons, including a large number of unarmed civilians, were allegedly killed during the looting and subsequent violence. On the following day, the DSP was reportedly sent to the spot to put down the disturbances, and some of its members opened fired indiscriminately on armed soldiers and defenceless civilians. Many of the latter were allegedly shot in their homes. Throughout these incidents, the population was left to its own devices. No one in authority, neither the President of the Republic, the Government, the Supreme Council of the Republic, the College of Secretaries-General nor the military hierarchy intervened to call the mutineers and looters to order. Hundreds of military personnel are said to have been arrested and held incommunicado in places of detention run by the DSP and SARM. They were kept in inhuman conditions and some of the injured died for lack of medical care.

24. Serious human rights violations, especially extrajudicial executions of civilians, looting and rape have also been attributed to government troops during anti-insurrection operations in the north-east of North Kivu region, close to the Ugandan border. Some of the violations were allegedly committed against unarmed civilians in reprisal for rebel actions. In particular, it has been reported that at the beginning of 1993 some 20,000 Zairians allegedly fled from Beni district to seek refuge in Uganda. The authorities have apparently taken no steps to put an end to the violations reported to them and to bring those responsible to justice.

2. Violations to the right to life in connection with the ethnic confrontations in North Kivu province

25. The province of North Kivu has a population of 3 million, a large proportion of whom are members of the Tutsi and Hutu ethnic groups, of Rwandan origin, and collectively known in this region as the Banyarwanda. According to the report by the DHA, this group makes up 80 per cent of the population in the two major administrative districts of the province, namely, Masisi and Rutshuru. Since 1981, the nationality of the Banyarwanda has been disputed on a number of occasions by the authorities. The acts of violence against them are said to have begun on 20 March 1993 in the region of Walikale, when attackers from the local ethnic groups, the Nyanga and Hunde reportedly massacred all the Banyarwanda they encountered at Ntoto market using machetes, bows and arrows and rifles. In September 1993, it was estimated that some 3,000 persons, most of them Banyarwanda, were killed. In mid-August, a humanitarian organization reported a total of 7,000 probable victims. This violent and chaotic situation allegedly led to the displacement of an estimated 225,000 persons now living in insecure and deplorable conditions. Their mortality rate is said to be alarming. At the time when this report was

drafted, an estimated 600,000 persons in North Kivu were reported to have been directly affected by the conflict, and the ethnic unrest was continuing to spread (DHA report, pp. 12).

26. According to some sources, barely a few days before the violence broke out, the Governor of North Kivu region cast doubt on the nationality of the Banyarwanda in public; in particular, he is reported to have promised that the security forces would help the Nyanga and Hunde to "exterminate" the Hutu and Tutsi, and to have financed the purchase of weapons. The Governor of North Kivu and his deputy were reported to have been suspended at the end of July 1993, although the authorities have not given the reasons for this decision nor specified whether they will take any other measures or initiate an investigation into the violence. As of August 1993, none of those responsible for having started or carried out the violence was reported to have been arrested. According to some information, members of the security forces in civilian clothes took part in the violence against the Banyarwanda and representatives of the authorities distributed firearms to non-Banyarwanda. In mid-July 1993, the President of the Republic is reported to have sent 140 men of the DSP to the spot, but the disturbances continued despite their presence. The soldiers sent to the region to quell the violence allegedly took advantage of the situation to loot and rape. Although direct involvement by members of the security forces in the violence has not been proven by all sources, the latter unanimously affirm that the security forces failed to take any action to bring it to an end.

3. Conditions of detention jeopardizing prisoners lives

27. In common with virtually the whole of the country's infrastructure, prisons and detention centres in Zaire are said to have been largely neglected and to be ageing, unhealthy, overpopulated and lacking in the most elementary facilities. Despite the assistance provided by humanitarian and religious associations, there have been reports of deaths from starvation or lack of medical care in Makala central prison in Kinshasa, as well as in other prisons elsewhere in the country. Prison and other officials have been accused of embezzling the meagre resources allocated for prisoners. In addition, it is claimed that relatives frequently have to pay in order to be allowed to give food to the detainees, and some of those without any relatives are left to die of hunger.

28. In addition to the official civilian prisons, there are reported to be detention centres and cells, known as lock-ups, in most administrative centres, as well as in the security forces' offices or barracks. It has been reported that most of these places of detention are overpopulated, lacking in decent sanitary facilities and that hygiene in them is deplorable. Under Zairian law, all detention centres should be supervised by a magistrate, although in practice the centres belonging to the security forces are used as clandestine and improvised prisons.

(c) Torture and inhuman or degrading treatment

29. Torture and ill-treatment of persons arrested by the security forces are reportedly commonplace in Zaire and are employed with complete impunity. In particular, there have been reports that various forms of cruel, inhuman or

degrading treatment, including electric shocks, sexual violence, mock executions and whippings are used to punish and humiliate persons suspected of supporting the opponents of the President of the Republic. The authorities, including the judicial authorities, are alleged to have refused to institute investigations into the cases of torture reported.

(d) Enforced or involuntary disappearances

30. Arrests without a warrant and even abductions of individuals suspected of being opponents or opposition sympathizers by members of the security forces have been reported. This illegal practice often leads to a clandestine extrajudicial execution. In virtually all cases, neither the suspects nor their relatives are informed of the reasons for the arrest, and the latter are not told where their relatives are detained. According to some sources, several of the reported disappearances are the work of a security forces unit known as the "owls" because its members generally operate only at night.

(e) Arbitrary arrests and detentions

31. During the year, opposition activists and sympathizers, including trade unionists, were allegedly arrested for having peacefully opposed the President of the Republic. They were allegedly held incommunicado, for periods exceeding the 48 hours prescribed by Zairian law. In some cases, they were subsequently released without trial.

32. Eight persons who were waiting to welcome a delegation of human rights activists arriving from France were allegedly arrested in December 1992 at N'Djili airport, near Kinshasa. Those arrested included close advisers of Prime Minister Tshisekedi. They were allegedly beaten when they were arrested and held incommunicado for three days before being released without charge.

33. Some detainees are allegedly being kept in prison solely because influential individuals responsible for their arrest object to their release. In addition, prisoners are reported to be kept in detention after having served their sentence because they have not corrupted prison administration officials.

34. Several hundred soldiers accused of having participated in the Kinshasa riots in January 1993 were allegedly arrested by the DSP and held in the detention centre at Tshatshi military camp. The authorities are reported not to have published the detainees' identities, and, moreover, no details have been given regarding the opening of an investigation.

(f) The case of the Kasaï in Shaba province: violations of the right to life, incitement to ethnic hatred, internal population displacement

35. Since colonial times, there has been regular movements of people from Kasaï to Shaba (formally Katanga) for economic reasons. Prior to the current conflict, some 2 million people from Kasaï origin were estimated to be living (some of them for several generations) in that mining and industrial part of the country. They enjoyed a higher socio-economic status than the members of the Lunda ethnic group, originating from Shaba.

36. The ethnic violence broke out in mid-August 1992, when Nguz Karl I Bond was replaced as Prime Minister by Etienne Tshisekedi (a Luba from Kasaï) and the Kasaï inhabitants of Shaba openly expressed their joy, occasionally in a provocative manner, at the change. Attacks, mainly led by armed militia from the Jeunesses de l'Union des fédéralistes et des républicains indépendants (Uferi, the political party of Nguz Karl I Bond and Gabriel Kyungu Wa Kumwanza, the Governor of Shaba) allegedly followed, mainly in the towns of Likasi and Kolwezi, but also in the neighbouring countryside. According to the DHA report, the Kasaï were compelled to leave their homes, most of which were destroyed or burned, and 135,000 of them were forced to move into public buildings or other places lacking sufficient sanitary facilities, mainly in stations or along the railway, in extremely precarious living conditions, awaiting transportation to Kasaï. It was reported, inter alia, that in June 1993 75,000 Luba were concentrated around Likasi station. In July 1993 their camp was allegedly destroyed and they were forcibly moved to an even more inhospitable place by the Likasi police, on the order of the armed forces. There were reported to be 23,000 individuals in the camp at Kolwesi before it was burnt by Lunda in July 1993. A high percentage of the 11,000 persons at Mwene Ditu station are reportedly suffering from malnutrition. According to official figures, 732,000 returnees have already arrived back in East Kasaï, and 85,000 in West Kasaï where they are endeavouring with some difficulty to integrate. Of these returnees, 400,000 displaced persons in East Kasaï and 70,000 in West Kasaï have been identified as vulnerable and in need of immediate assistance (DHA report, pp. 5 and 11).

37. According to several sources, Nguz Karl I Bond and the Governor of Shaba, Kyungu wa Kumwanza, and their supporters, instigated the violence in order to drive Etienne Tshisekedi's supporters from Shaba. After he was replaced by Tshisekedi, Nguz Karl I Bond, who had been sent to Shaba by the President of the Republic to examine the situation, publicly stated his intention of making the province ungovernable for Etienne Tshisekedi. For his part, the Governor of Shaba made statements designed to accentuate the existing economic tension between the two ethnic groups and to ferment hatred of the Kasaï. Similarly, the Shaba media, which are totally under government control, played a pernicious role in the crisis.

38. The security forces were allegedly very slow in reacting to prevent or put a stop to the violence. When they intervened, only poorly equipped and trained troops were sent; they encountered gangs of Lunda and were unable to protect the Kasaï effectively, for lack of reinforcements or of political support from local or national leaders. According to several reports, the attackers' ringleaders had been given training by the local police, which was in turn supported by the central authorities. Those who took part in the violence acted with total impunity and those who were detained by the security forces were reportedly released as a result of pressure from some officials. After the violence had ended, no measures were adopted either by the local government or the armed forces to enable the victims to return to their homes and to recover their property.

39. In June 1993, the Voice of Zaire (the official national radio station) allegedly announced that the President of the Republic would no longer guaranteed the security of the Luba of Shaba after 31 July 1993.

(g) Freedom of expression and press freedom

40. Numerous independent newspapers have been found since 1990. Initially, there was no restriction on their activities, but when it emerged that most of them were critical of the President of the Republic and his supporters, the Government sought to censor them. It is alleged that dozens of journalists have been imprisoned, received death threats or been intimidated; government agents are reported to have destroyed printing shops and editorial offices, attacked newspaper vendors and confiscated or destroyed numerous stocks of publications. Circulation of the capital's independent press is reportedly prohibited in provincial towns. For example, in Shaba region, opposition newspapers have been outlawed by order of the Governor since 1992.

41. The journalists who were reported to have been arrested include the editor-in-chief of Phare, detained by the National Intelligence and Protection Service (SNIP) in April 1993 and released without trial on 28 June 1993. Some of his relatives and another member of Phare's editorial staff went into hiding out of fear for their safety.

42. Despite an apparent relative freedom of expression in Zaire, there have been reports that people have been arrested, placed in detention and tortured solely for having criticized the President of the Republic and his policy in manifestly private conversations. The case of Jean-Claude Bahati has been reported in this connection. He was allegedly arrested and tortured for three days by members of the DSP on 13 September 1992 after having expressed opinions favourable to the opposition in a conversation in a collective taxi. He reported this to the authorities, but no investigation was opened and those responsible for the incident remain unpunished.

(h) Violent repression of peaceful demonstrations

43. The security forces have allegedly made improper use of force during peaceful demonstrations, whether spontaneous or organized by the opposition, and have killed or wounded unarmed civilians, as in the case of the armed repression of the peaceful popular demonstrations organized in connection with the so-called day of "popular resistance" on 18 December 1992. Those responsible have reportedly incurred neither penal nor disciplinary sanctions. It has also been reported that the security forces killed four men and an 11-year-old child taking part in a meeting of the Union pour la démocratie et le progrès social (UDPS) in a Kinshasa stadium on 4 July 1993. Other people were reportedly wounded or disappeared in the same incident.